



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 3, 1998

Mr. Miles K. Risley
City Attorney
Legal Department
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR98-2575

Dear Mr. Risley:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119173.

The Victoria Police Department (the "department") received a request for all police calls in the last two years which concern two named individuals, and also all calls made at a particular address from October 1997 through July 1998. You assert that the requested records are confidential pursuant to sections 58.007 and 261.201 of the Family Code, in conjunction with section 552.101 of the Government Code.

Section 552.101 excepts from required public disclosure information that is made confidential by law, including information made confidential by statute. Section 58.007(c) of the Family Code reads in pertinent part as follows:

Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public

Subsection (d), which concerns the transfer of records in certain circumstances, is apparently inapplicable here. We agree that section 58.007(c) makes confidential most of the information at issue, as it concerns offenses and incidents that involve juveniles. *See also* Fam. Code § 51.02(2) (defining "child"). We have marked the submitted information that is subject to section 58.007(c) and must be withheld from disclosure.

Subsection (a) of section 261.201 of the Family Code provides:

(a) The following information is confidential, is not subject to

public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with . . . [the Family] code and applicable federal or state law or under rules adopted by an investigating agency:

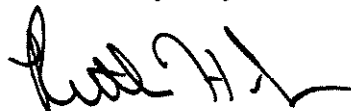
(1) a report of alleged or suspected abuse or neglect made under . . . chapter [261 of the Family Code] and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.

You assert that section 261.201 is applicable to one of the reports, which concerns an alleged assault of a child, and that this report was used or developed in an investigation by the department under chapter 261 of the Family Code. Based upon your argument, we agree that section 261.201 is applicable to the report, which may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by the department, which is the agency that investigated the complaint. Since you have not informed this office that the department has adopted any rules providing for release of this information, we conclude that this report, which we marked, is confidential in its entirety.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 119173

Enclosures: Submitted documents

¹As these records are confidential, we need not address your other arguments against disclosure.